

ORIGINAL

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PUBLIC UTILITIES
COMMISSION

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FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
)
PUBLIC UTILITIES COMMISSION)
)
)
Instituting a Proceeding to Investigate the)
Implementation of Feed-in Tariffs.)

DOCKET NO. 2008-0273

DIVISION OF CONSUMER ADVOCACY'S
COMMENTS ON PROPOSED TIER 3 FEED-IN-TARIFFS

Pursuant to the Order Setting Schedule filed on October 29, 2009, the Division of Consumer Advocacy ("Consumer Advocate") hereby submits the following comments on the proposed Tier 3 Tariffs filed by Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), and Maui Electric Company, Ltd. ("MECO") (collectively, "the HECO Companies") on April 29, 2010, and Clean Energy Maui LLC and Zero Emissions Leasing LLC on April 29, 2010.

I. COMMENTS.

The Consumer Advocate's comments upon the proposed Tier 3 Tariffs are not intended to be comprehensive. The Consumer Advocate anticipates that additional comments will be developed and that its current assessment might evolve as the HECO Companies' Feed-in Tariffs ("FITs"), in their entirety, are adopted and applied throughout the HECO Companies' service territories.

On March 10, 2010, the Consumer Advocate participated in a technical session during which the HECO Companies presented information concerning the development of its Tier 3 Tariff payment rates. Similar to its development of its proposed Tier 1 and Tier 2 Tariff payment rates, the HECO Companies utilized consultants to help develop the initial Tier 3 Tariff payment rates, using a modified levelized cost of energy ("LCOE") model to come up with various pricing scenarios for the cost of energy procured under FIT – Tier 3.

The HECO Companies and the Parties, attending the March 10, 2010 technical session, expressed concern regarding the lack of Hawaii specific data and experience for many of the FIT-eligible technologies in the Tier 3 size category, and the range of cost differences that could be incurred by Tier 3 project developers in Hawaii. The additional information from Tier 3 stakeholders that is needed for developing reasonable payment rates tied more closely to Hawaii-specific project conditions include, but are not limited to, more input on typical construction terms and capital expenditures, expected capacity factor performance, and even the availability of certain technologies (such as an in-line hydro facility) in the Tier 3 size category.

The Consumer Advocate notes that there may be potential concerns that the calculated Tier 3 rates sometimes exceed comparable rates for Tier 2 projects. Such a result might be viewed as counter-intuitive, since there should be some benefits associated with economies of scale for Tier 3 projects. It should be clear, however, that appropriate comparisons are being made. Tier 3 rates include costs such as land and interconnection and Tier 2 rates do not, therefore, it would not be an apples-to-apples comparison. Even when land and interconnection costs are removed from comparison certain technologies may still yield counter-intuitive results.

Thus, there are remaining questions and concerns, some of which cannot be resolved until more data becomes available. One such concern is that setting Tier 3 rates too high may send an improper signal to the industry, especially for projects that are sized at the higher end of Tier 2 and the lower end of Tier 3. In other words, for such projects setting higher rates for a Tier 3 project may signal the industry that there is a higher value associated with projects sized larger than 500kW. The issue with setting proper Tier 3 rates is also made more difficult as: (1) the LCOE model runs are predicated upon information that for the most part is not Hawaii-specific; (2) to the extent that Hawaii-specific data was used such data may not reflect a "typical" project size; and (3) there is a significant range for the size of the Tier 3 projects (i.e., 500kW to 5MW) that adds complexity to capturing a "typical" project.

The Consumer Advocate understands and appreciates that the HECO Companies' proposed Tier 3 Schedule FIT is intended to support the procurement of renewable energy from the typical or average renewable energy project that is

reasonably cost-effective for the HECO Companies and its ratepayers.¹ Nevertheless, the balance between various critical considerations in Hawaii-specific energy planning must not be forgotten. Besides striving towards the goals of accelerating the integration of renewable energy resources onto the HECO Companies' electricity grids and promoting energy efficiency programs across the State, the financial impacts on the customers of HECO, HELCO, and MECO and the potential impact on the reliability of HECO's, HELCO's, and MECO's systems must be weighed and considered at all times. Otherwise, customers might experience certain adverse impacts from the deployment of the HECO Companies' Tier 3 Schedule FIT, such as short-term energy rates that are much higher than the rates would be in the absence of the application of the FIT and/or reduced system reliability that would negatively impact residential and commercial customers in their daily activities.

The Commission seems to recognize the difficulty in developing Tier 3 payment rates that strike a balance between expediting the adoption and integration of renewable energy resources onto the HECO Companies' electricity grids and the need to avoid adverse rate and service impacts upon the HECO Companies' customers. For example,

The [C]ommission recognizes the difficulty in determining standardized interconnection processes for larger projects, but finds that FITs should not be bifurcated. Bifurcation will [only] add a level of complexity and frustrate the goal of deploying projects quickly. . . .

¹ See In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 62 (filed on Sept. 25, 2009) (stating that FIT rates should support the typical or average project that is reasonably cost-effective).

The [C]ommission acknowledges the difficulty in assuming standardized interconnection processes for larger projects, but prefers that FITs contain a set cost for interconnection. The developer can then make . . . [a] determination whether its project can proceed under the FIT rate. If a developer's interconnection costs are so high as to render use of the FIT uneconomical, it always has the option of negotiating a [power purchase agreement ("PPA")] with the utility.²

Throughout the development of the proposed FIT payment rates, Tiers 1 through 3, the Consumer Advocate has been concerned that the scarcity of Hawaii-specific data or information on the typical or average renewable energy project in the State could impact the reasonableness and/or relevance of the payment rates finally incorporated into the HECO Companies' Schedule FIT. With LCOE model runs based, to a large degree, upon inputs from non-Hawaii-specific data sources, the Consumer Advocate questions whether the results of the LCOE model reasonably reflect the cost of developing the typical or average renewable energy project in Hawaii. If the rates are too low, the imperfections in the modeling process might inhibit the interest in developing renewable energy projects in the State using the HECO Companies' Schedule FIT. However, if the rates turn out to be too high, the imperfections in the modeling process might encourage developers to develop renewable energy projects in Hawaii using the HECO Companies' Schedule FIT, but HECO, HELCO, and MECO ratepayers would suffer the adverse effects of robust FIT participation in the form of higher rates when compared to what would be paid out using appropriate Hawaii-specific data inputs.

The Consumer Advocate believes that, at this initial stage in FIT development and program implementation, the lack of sufficient Hawaii-specific and/or stakeholder information needed to develop FIT payment rates for the State should not be

² In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 69.

overlooked. Thus, cautious and careful processes should be employed by the Commission with respect to the implementation of FIT – Tier 3. As the Commission evaluates the approval of the deployment of FIT – Tier 3 in this docket, the Consumer Advocate contends that it must be made clear that the establishment of FIT rates represent a significant movement in support of the integration of renewable resources, even if it does not represent the preferred levels of certain parties. Adopting the rates proposed by HECO appears to represent a reasonable, cautious step to mitigate the potential cost impact on ratepayers at this time. Subsequently, as more Hawaii specific data becomes available, rates should be re-evaluated to determine whether those rates remain reasonable or whether modifications are necessary. In addition, if the Tier 3 FIT payment rates are so insufficient as to render use of the FIT uneconomical for a potential renewable energy project developer, the potential developer would have the option of negotiating a PPA with the HECO Companies. The Commission expressly recognized this possibility in the Decision and Order filed on September 25, 2009.³

The preceding comment is not meant to convey a particular policy preference with respect to the use of the FIT versus bilateral PPA negotiations. The Consumer Advocate is well aware that an interested developer would most likely prefer and the Consumer Advocate supports the option of taking a pre-defined, reasonable and fair FIT contract and payment rate as compared to the experience of initiating and completing negotiations to reach a bilateral agreement with the HECO Companies for a renewable energy project. The Consumer Advocate is, and remains, hopeful that more Hawaii specific data and stakeholder input will be made available for use by the Commission in

³ See Pages 4 and 5, above (quoting In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 69).

future Commission proceedings. Additional information will allow the Commission to reasonably adjust FIT payment rates based upon Hawaii-specific data inputs as they become available.

These comments are intended to convey the Consumer Advocate's concern that the initial deployment of the FIT results in allocating customer dollars to those renewable resources which are of the most cost-effective size and technology. As the penetration of renewable resources increases, so does the possibility of curtailments, thereby frustrating efforts to decrease the dependence on fossil fuels. This will shift emphasis from the initial development of FIT Tiers 1, 2 and 3 rates and tariffs to the need for engineering and technical solutions and ancillary services to accommodate the possible or probable addition of more, and larger, intermittent renewable resources. The larger Tier 3 FIT projects may very well be able to offer such ancillary services thereby providing a basis or justification for higher rates than rates for comparable Tier 1 and Tier 2 technologies. However, the ancillary services needed have not yet been defined or quantified, nor has the capability of Tier 3 FIT projects to provide such ancillary services been fully explored at this time to allow such recognition in the initial development of Tier 3 FIT tariffs.

II. CONCLUSION.

As mentioned above, these comments should not be considered to be comprehensive in nature. Assuming that additional information is provided to address outstanding areas of concerns with respect to the non-intuitive results of the HECO Companies' LCOE model runs, the Consumer Advocate reserves the right to revise and

proffer its comments in subsequent Commission proceedings as necessary and appropriate.

DATED: Honolulu, Hawaii, May 20, 2010.

Respectfully submitted,

By 
DEAN NISHINA
Executive Director

DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S COMMENTS ON PROPOSED TIER 3 FEED-IN-TARIFFS** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

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